

2011 Se1 DRAFTING REQUEST

Assembly Amendment (AA-AB23)

Received: **10/24/2011**

Received By: **jkreye**

Wanted: **As time permits**

Companion to LRB:

For: **Patricia Strachota (608) 264-8486**

By/Representing: **heather**

May Contact:

Drafter: **jkreye**

Subject: **Tax, Other - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Strachota@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Various duties of DOR; technical changes

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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	10/24/2011	10/24/2011	10/26/2011	_____	10/26/2011	10/26/2011	
	jkreye	kfollett		_____			
	10/26/2011	10/26/2011		_____			

FE Sent For:

<END>

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/1	jkreye	10/24 10/26 10/26	10/26 Ph	X			

FE Sent For:

<END>

Kreye, Joseph

From: Don M. Millis [dmillis@reinhartlaw.com]
Sent: Monday, October 24, 2011 10:40 AM
To: Hardt, Diane L - DOR; Erlandsen, Dana J - DOR
Cc: Kreye, Joseph; Moore, Heather; Huffman, Hannah
Subject: RE: DOR Reform Bill

I see. Let's send this to Joe Kreye.

From: Hardt, Diane L - DOR [mailto:Diane.Hardt@revenue.wi.gov]
Sent: Monday, October 24, 2011 10:39 AM
To: Don M. Millis; Erlandsen, Dana J - DOR
Subject: RE: DOR Reform Bill

Delete sections 36, 37 and 38 of the bill and make the following amendment:

This change will treat intoxicating liquor tax the same as fermented malt beverage tax.

Amend 139.11(4)(b) of the statutes to read:

Sections 71.78 (1), (1m) and (4) to (9) and 71.83 (2) (a) 3.and 3m., relating to confidentiality of income, franchise and gift tax returns, ~~do not~~ apply to any information obtained from any person on an intoxicating liquor tax return, report, schedule, exhibit or other document or from an audit report relating to any of those documents. With the information provided to the department by any person, the department of revenue shall publish at least once each month:

Diane L. Hardt
Administrator, Division of Income, Sales & Excise Taxes
Wisconsin Department of Revenue
P.O. Box 8933
Madison, WI 53708-8933
(608) 266-6798
Fax (608) 261-6240
E-mail: Diane.Hardt@revenue.wi.gov

From: Don M. Millis [mailto:dmillis@reinhartlaw.com]
Sent: Monday, October 24, 2011 9:40 AM
To: Hardt, Diane L - DOR; Erlandsen, Dana J - DOR
Cc: 'Jason Culotta'; Kreye, Joseph - LEGIS; Moore, Heather - LEGIS; Huffman, Hannah - LEGIS
Subject: RE: DOR Reform Bill

Diane & Dana,

I have had a greater chance to look at these suggestions.

Number 1. Section 52(4) should be amended, to use the LRB's style: "first applies to audit determinations issued ~~[after]~~ on January 1, 2014." (Deleted material bracketed and in red.) However, in light of your comments in number 2, maybe we should go with the language below.

Number 2. After reading this several times, I see your concern. Here is how I would deal with this. "The treatment of section 73.16(3) of the statutes applies to the defense of audit determinations that are first [applies]

10/24/2011

issued [after] on January 1, 2014."

Number 3. I defer to you on eliminating the references to ch. 125. I assume that means simply deleting sections 36, 37, & 38 of the Bill. As for the treatment of section 139.11(4)(b), is this what you had in mind?

139.11(4)(b) Sections 71.78 (1), (1m), and (4) to (9) and 71.83 (2) (a) 3. and 3m, relating to confidentiality of income, franchise and gift tax returns, do not apply to any information obtained from any person on an intoxicating liquor tax return, report, schedule, exhibit or other document or from an audit report relating to any of those documents. With the information provided to the department by any person, the department of revenue shall publish at least once each month:

Don

Don M. Millis

Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street, Suite 600 | Madison, WI 53703
Office: 608-229-2234 | Cell: 608-698-2650 | Fax: 608-229-2100
dmillis@reinhartlaw.com | bio | vCard | reinhartlaw.com
Legal Secretary: Erica Johnson | 608-229-2281 | ejohnson@reinhartlaw.com



From: Don M. Millis

Sent: Friday, October 21, 2011 6:07 PM

To: Hardt, Diane L - DOR; 'Erlandsen, Dana J - DOR'

Cc: 'Jason Culotta'; 'Kreye, Joseph'; Moore, Heather; Huffman, Hannah

Subject: FW: DOR Reform Bill

Diane & Dana,

I have not had a chance to fully review all of the changes you suggested below. I think no. 1 makes sense. I don't understand no. 2. I need to look at no. 3 more closely and will do so over the weekend.

Maybe we can talk before or after the hearing on Monday.

Don

From: Jason Culotta [mailto:jculotta@wmc.org]

Sent: Thursday, October 20, 2011 3:57 PM

To: Don M. Millis

Subject: FW: DOR Reform Bill

From: Western, Jennifer N - DOR [mailto:Jennifer.Western@revenue.wi.gov]

Sent: Thursday, October 20, 2011 1:51 PM

To: Jason Culotta

Cc: Wagner, Michael W - DOR

Subject: FW: DOR Reform Bill

Hi Jason, I just wanted to keep you updated on the technical changes that we will be sharing with Rep. Strachota and Sen. Zipperer about the DOR Procedural Bill. I had mentioned these to you on the phone yesterday. Feel free to pass these on to Don Millis; he may already know about these.

10/24/2011

~Jennifer

L - DOR
October 12, 2011 2:29 PM
fer N - DOR; Wagner, Michael W - DOR
ia J - DOR
DR Reform Bill

This is the list so far:

The initial applicability language in sec. 52(4) is that the treatment of sec. 73.16(3) (Relying on Past Audits) "first applies to audit determinations issued after on January 1, 2014." This should say "on or after January 1, 2014".

2. Section 73.16(3) (Relying on Past Audits) refers to both a "current determination" and a "past determination," but the initial applicability language in sec. 52(4) only refers to "audit determinations." It appears that the initial applicability language in sec. 52(4) should refer to new audit determinations issued on or after January 1, 2014.

3. For the change in the anti-browsing language: eliminate the treatment of the chapter 125 permits and, instead, amend s. 139.11 (4) (b) so that it is similar to s. 139.11 (4) (b), which relates to malt beverages and is treated in the bill. Section 139.11 (4) (a) maintains the confidentiality of documents related to the malt beverages tax, but allows DOR to publish production and sales statistics

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Kreye, Joseph

From: Rep. Strachota
Sent: Wednesday, October 26, 2011 9:52 AM
To: Kreye, Joseph
Subject: FW: Amendments for Special Session Senate and Assembly Bill 23 (DOR Procedures Reform)

Importance: High

Heather Moore

Office of Pat Strachota
Office (608) 264-8486
Toll-Free (888) 534-0058

From: Wagner, Michael W - DOR [<mailto:MichaelW.Wagner@revenue.wi.gov>]
Sent: Tuesday, October 25, 2011 5:49 PM
To: Moore, Heather; Huffman, Hannah
Cc: Smith, Heather; Western, Jennifer N - DOR; Toftness, Jennifer
Subject: Amendments for Special Session Senate and Assembly Bill 23 (DOR Procedures Reform)
Importance: High

This additional item should be addressed via JFC's amendment tomorrow along with the other two changes sent yesterday.

Please let me know if you have any questions.

Section 45, Page 25, Line 4:

Replace "alleges" with "establishes." This change prevents frivolous petitions for a rule. This came up in the hearing in the Assembly this morning since "alleges" allows for a claim without any sort of basis in fact.

Change #3:

227.12 (4) If a petition to the department of revenue ~~alleges~~ establishes that the department has established a standard by which it is construing a state tax statute, but has not promulgated a rule to adopt the standard or published the standard in a manner that is available to the public, the department shall, as provided under s. 227.135, submit a statement of the scope of the proposed rule to the governor no later than 90 days after receiving the petition

Regards,

Mike Wagner
Legislative Advisor, Dept. of Revenue
608-266-7817

From: Wagner, Michael W - DOR
Sent: Monday, October 24, 2011 6:55 PM

To: Moore, Heather - LEGIS; Huffman, Hannah - LEGIS
Cc: Western, Jennifer N - DOR
Subject: Amendment Suggestion for SS SB 23 / SS AB 23 (DOR Procedures Reform)

Heather and Hannah,

Please disregard the language from my amendment suggestion this morning. We have internally developed improved language than what was previously proposed. We also ran it by Don Millis, who did not object to the changes.

Change #1:

Page 10, beginning on line 9, amend as follows:

(3) RELYING ON PAST AUDITS. (a) A person who is subject to a determination by the department on or after January 1, 2014, including all other members of that person's commonly controlled group for purposes of determining the tax due under s. 71.23 for taxable years beginning after Dec. 31, 2008, shall not be liable for any amount that the Department asserts that the person owes if all of the following conditions are satisfied. ...

This change clarifies the appropriate effective date of this provision. On a related note:

DELETE Section 52(4)

This is a cross-reference to the effective date that was causing the confusion. Since the "on or after January 1, 2014" language is now under (3), this cross-reference is not needed.

Change #2:

DELETE Sections 36, 37, and 38 of the bill.

Sections 36-38 relate to records that are currently public records. By adding the anti-browsing provisions to these sections, we'd end up criminalizing review of a public record. The end result after deleting these sections is that what is currently private remains private, and what is currently public remains public. The only change is that what is currently private will now have the updated browsing language protecting that information.

Please let me know if you have any questions or if I can be helpful.

Regards,

Mike Wagner
Legislative Advisor, Dept. of Revenue
608-266-7817

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State of Wisconsin
2011 - 2012 LEGISLATURE
September 2011 Special Session



LRBa1733/1

JK:...

gf

ASSEMBLY AMENDMENT,
TO ASSEMBLY BILL 23

in 10-26
Now

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 10, line 10: after "department" insert "on or after January 1, 2014".
- 3 **2.** Page 23, line 21: delete the material beginning with that line and ending
- 4 *with* on page 24, line 5.
- 5 **3.** Page 25, line 24: delete "alleges" and substitute "establishes".
- 6 **4.** Page 30, line 13: delete lines 13 and 14.

(END)